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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/540,347

06/21/2005

Robert Fernand Bujeau

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07/22/2008

THOMPSON HINE LLP
Intellectual Property Group
P.O. Box 8801
DAYTON, OH 45401-8801

EXAMINER

ST CLAIR, ANDREW D

ART UNIT

PAPER NUMBER

3749

MAIL DATE

DELIVERY MODE

07/22/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/540,347	Applicant(s) BUJEAU ET AL.	
	Examiner ANDREW ST CLAIR	Art Unit 3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 5/5/2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14, 18-27 and 101 is/are pending in the application.
- 4a) Of the above claim(s) 14 and 18-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 101 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/21/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Examiner Notes

1. Applicants are reminded of the duty to disclose under 37 CFR § 1.56. It has come to Examiner's attention that there are at least two similar applications with the same assignee having prior art of record that is considered material to the patentability of the present application: 10/513,497 and 09/706,476. In particular, 10/513,497 contains many references in the Information Disclosure Statement which appear similar to the invention of the present application, particularly DE 19730610. Examiner requests that applicant submit a listing of all such patents, patent publications, and other documents known by applicant to bear as much similarity to the present application as the reference listed in the specification.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-4, 7, are 9-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Hansen et al. (US 6,987,246).

With respect to claim 1, Hansen discloses an oven for cooking food (see fig. 5), the oven comprising: an enclosure for receiving food to be heated and for containing a cooking atmosphere 14A, the enclosure comprising two horizontal walls forming respectively a bottom

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wall and a top wall, interconnected by at least two vertical side walls, the enclosure being closed by at least one door that is likewise vertical, and communicating with the outside via an exhaust opening for exhausting gas inside the enclosure and at a pressure above atmospheric pressure (see fig. 5; exhaust opening is proximate to condensate tank 104A); and a heater device 22a for heating the cooking atmosphere; the oven being characterized by the fact that it comprises: a regulation chamber 200, filled at least in part with a liquid of volume adapted to vary between a high level and a low level, the regulation chamber communicating with the enclosure via an air inlet 208; and an air admission duct 202 which extends between a high end and a low end, the high end opening out outside the regulation chamber and the enclosure, and the low end being closed by the liquid in the regulation chamber when the level of the liquid corresponds substantially to its high level (the air admission duct is considered to be “closed” by the chamber in that the chamber is a substantially confined space surrounding the outlet of the air admission duct).

With respect to claim 2, Hansen further discloses the claimed subject matter including an evacuation chamber 104a filled at least in part with a liquid of volume that is adapted to vary between a high level and a low level, said evacuation chamber communicating with the regulation chamber during oven cooking operations. (communication via overflow tube 204).

With respect to claim 3, Hansen further discloses the claimed subject matter including an evacuation tube extending between the exhaust opening and a high end opening out into the evacuation chamber above the high and low liquid levels. (see fig. 5, the tube connecting enclosure 14A to chamber 104A is considered to be the evacuation tube; it opens out above the high and low liquid levels at the end proximate to the exhaust opening.)

With respect to claim 4, Hansen further discloses the claimed subject matter including a chimney 87 extending between a first end communicating with the outside of the evacuation chamber and a second end coming over the high level of the liquid, said second end allowing gas under positive pressure to escape from the enclosure via the evacuation tube.

With respect to claim 7, Hansen further discloses the claimed subject matter comprising in the evacuation chamber, a first temperature probe 80a for measuring the temperature of the gas coming from the exhaust opening, and a second temperature probe 81a placed below the low level of the liquid in the evacuation chamber.

With respect to claim 9, Hansen further discloses the claimed subject matter including a fan 28a disposed inside the enclosure to stir the cooking atmosphere heated by the heater device, said fan creating a suction zone inside the enclosure, the air inlet being situated substantially in the suction zone of the fan.

With respect to claim 10, Hansen further discloses the claimed subject matter including vapour-producing means 18a, 30a suitable for delivering water vapour into the enclosure, the vapour-producing means external of the regulation chamber.

With respect to claim 11, Hansen further discloses the claimed subject matter in which the exhaust opening for exhausting gas under positive pressure inside the enclosure is situated beneath the heater device. (see fig. 5)

With respect to claim 12, Hansen further discloses the claimed subject matter in which the exhaust opening opens out substantially in the lowest point of the bottom wall. (see fig. 5)

With respect to claim 101, Hansen discloses an oven for cooking food (see fig. 5), the oven comprising: an enclosure for receiving food to be heated and for containing a cooking atmosphere 14A, the enclosure comprising a bottom wall and a top wall, interconnected by at least two side walls, the enclosure being closed by at least one door, and communicating with the outside via an exhaust opening for exhausting gas inside the enclosure and at a pressure above atmospheric pressure (see fig. 5; exhaust opening is proximate to condensate tank 104A); and a heater device 22a for heating the cooking atmosphere; a regulation chamber 200, filled at least in part with a liquid of volume adapted to vary between a high level and a low level, the regulation chamber communicating with the enclosure via an air inlet 208; an air admission duct 202 which extends between a high end and a low end, the high end opening out outside the regulation chamber and the enclosure, and the low end being closed by the liquid in the regulation chamber when the level of the liquid corresponds substantially to its high level; an evacuation chamber filled at least in part with a liquid of volume that is adapted to vary between a high level and a low level, said evacuation chamber communicating with the regulation chamber during oven cooking operations. (the air admission duct is considered to be “closed” by the chamber in that the chamber is a substantially confined space surrounding the outlet of the air admission duct).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 5-6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hansen et al. (US 6,987,246).

With respect to claim 5, Hansen further discloses the claimed subject matter including a regulator itself comprising the regulation chamber and the evacuation chamber, these two chambers constituting volumes that are separated from each other at least in part via a partition (side walls of regulation chamber are considered a partition) internal of the regulator and that communicate with each other via a narrow passage (opening of tube 204) in the partition adapted to allow the liquid to flow between these two chambers. With respect to the recitation of “side by side” volumes, this is considered to be a matter of design choice within the purview of one skilled in the art. Applicant has not disclosed any design criticality related to this positional limitation. The choice of whether to locate the regulation chamber above the enclosure 14a or below it and side by side with the evacuation chamber is thus considered to be merely a rearrangement of parts. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the regulation chamber side by side with the evacuation chamber because rearrangement of parts is considered prima facie obvious. MPEP 2144.04.

With respect to claim 6, Hansen further discloses the claimed subject matter including, in the evacuation chamber, a first temperature probe 80a for measuring the temperature of the gas coming from the exhaust opening a second temperature probe 85a for measuring the temperature of the gas coming into the enclosure via the air inlet. Hansen does not disclose the second temperature probe being “in the regulation chamber,” but rather proximate to the entrance of the air inlet. The choice of which side of the air inlet to measure temperature, in the absence of a disclosure of criticality, is considered to be a matter of design choice and simple rearrangement of parts. It would have been obvious to one of ordinary skill in the art at the time the invention was made to rearrange the temperature sensor to be on the opposite side of the air inlet because rearrangement of parts is considered prima facie obvious. MPEP 2144.04.

With respect to claim 8, Hansen further discloses the claimed subject matter including calculation means for determining the relative humidity in the oven as a function of the temperatures measured by the first and second probes. (col. 8, ln. 35-49; col. 9, ln. 51-54; “Under normal operating conditions, the ECU 70A operates to control the water valve as needed to increase or decrease the humidity in the cooking chamber 14A.”)

7. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hansen et al. (US 6,987,246) in view of Violi (US 5,552,578).

With respect to claim 13, Hansen does not disclose the exhaust opening communicates with a siphon adapted to evacuate liquids and condensates from the enclosure while preventing cold air from rising into the enclosure. Violi discloses a similar invention with a siphon 9 on the discharge pipe. (see fig. 1). It would have been obvious to one of ordinary skill in the art at the

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time the invention was made to provide the discharge pipe of Hansen with a siphon for the purposes of preventing the entrance of air into the enclosure.

Response to Arguments

8. In re claims 1-13 and 101, Applicants' arguments have been fully considered and are responded to below.

Applicant's arguments are directed exclusively at the prior art rejection of the Non-final Office Action in view of the claim amendments submitted subsequent to that rejection. Accordingly, those arguments are addressed by the new prior art rejection necessitated by amendment.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW ST CLAIR whose telephone number is (571)270-3513. The examiner can normally be reached on Monday - Friday, 8 a.m. - 6 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve McAllister can be reached on 571-272-6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew St.Clair/
Examiner, Art Unit 3749

/Steven B. McAllister/
Supervisory Patent Examiner, Art Unit 3749